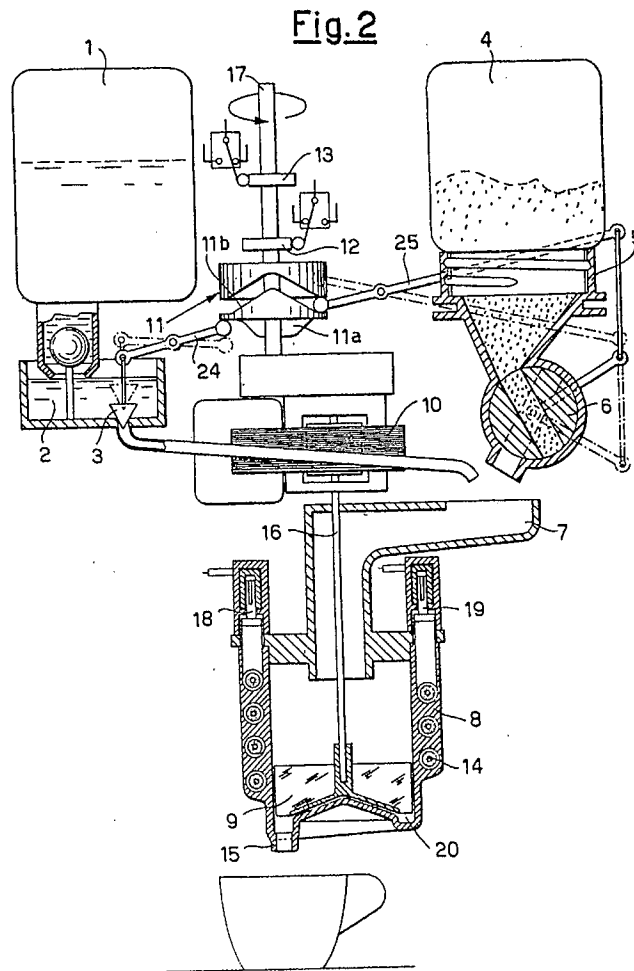


### REMARKS

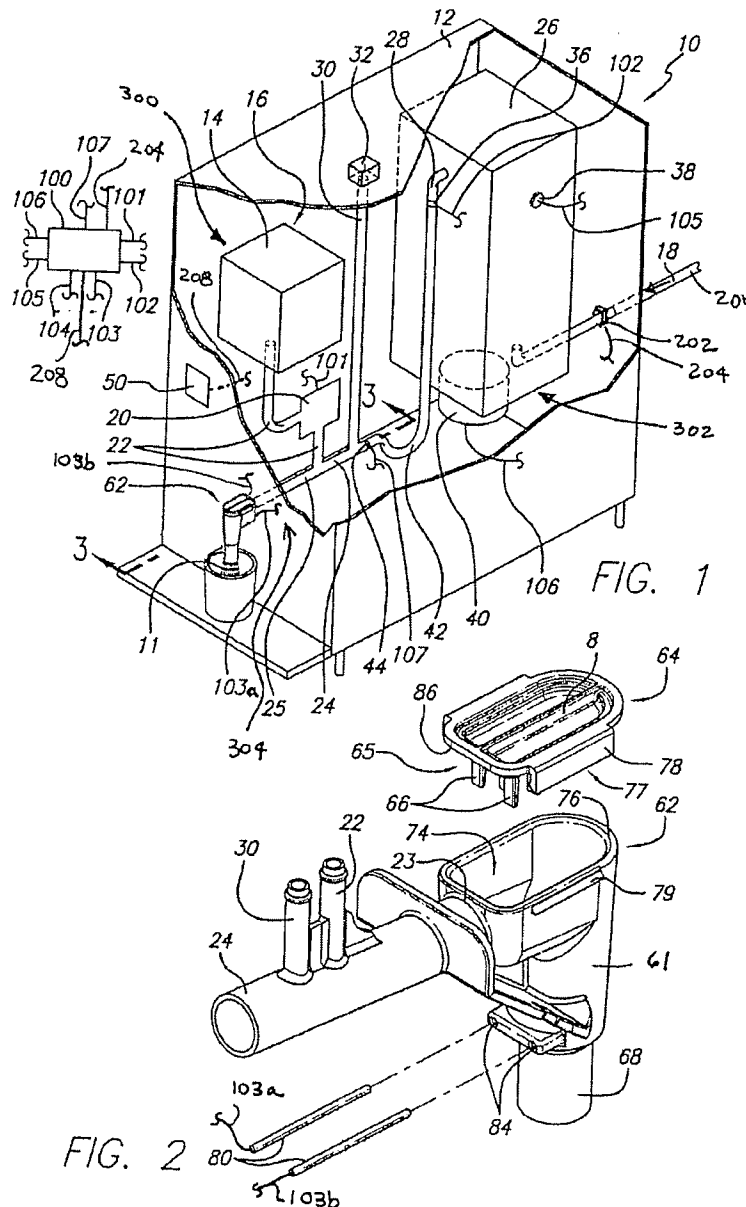
In response to the office action mailed on November 23, 2007, Applicants amended claims 1 and 19 and added new claims 73 and 74. Claims 3-5, 9-18, 21, 22, 27-33, 40, and 52-68 were previously withdrawn, and claim 42 was previously cancelled. Thus, claims 1, 2, 6-8, 19, 20, 23-26, 34-39, 41, 43-51, and 69-74 are presented for examination.

Claims 1, 2, 6, 7, 19, 20 and 69-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Di Girolamo (US 4,357,861) in view of Lowe (US 7,036,687) and Crisp (US 6,766,656). But Di Girolamo, Lowe, and Crisp, taken alone and in any proper combination, fail to disclose or suggest a beverage mixer and dispenser including a feed opening leading through a housing to a mixing chamber where the feed opening is arranged to allow manual addition of drink additives to the mixing chamber from outside of the beverage mixer and dispenser, as required by claims 1, 2, 6, 7, and 69, or a feed opening leading through a housing to a mixing chamber where the feed opening is arranged to allow a soluble substance to be manually added directly into the mixing chamber from outside the beverage mixer and dispenser, as required by claims 19, 20, and 70.

As shown in Di Girolamo's Fig. 2 below, Di Girolamo describes a machine that includes a metering unit 6 that dumps powder from a container 4 into a manifold 7 in communication with a chamber 8. (See, e.g., Di Girolamo, col. 2, lines 32-35, 56-61). Di Girolamo's machine is intended for brewing beverages by automatically admixing products which are soluble in a liquid. (See, e.g., Di Girolamo, col. 1, lines 6-13). As acknowledged by the Examiner, Di Girolamo does not disclose or suggest a housing, much less a feed opening leading through a housing to a mixing chamber where the feed opening is arranged to allow manual addition of drink additives or manual addition of a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser.



As shown in Lowe's Figs. 1 and 2 below, Lowe describes a beverage dispensing system including a mixing chamber disposed outside of a housing and a removable cover over the mixing chamber to facilitate cleaning the mixing chamber. (See, e.g., Lowe, col. 8, lines 8-10). The portion of Lowe's system that the Examiner contends is a mixing chamber feed opening is outside of Lowe's housing. (See, e.g., Lowe, Figs. 1 and 2). Thus, Lowe does not disclose a feed opening leading through a housing to a mixing chamber, much less such a feed opening being arranged to allow manual addition of drink additives or manual addition of a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser.



In addition, Lowe teaches that “[a]ccess to the interior of [the] mixing chamber . . . is desirable for greater sanitation” and, in his system “it is easy to manually clean and inspect the interior of the mixing chamber 60 by simply removing removable cover 64.” (Lowe, col. 8, lines 9-10, 15-18). Modifying Lowe’s system to include a mixing chamber within the housing and a

feed opening extending through the housing to the mixing chamber would render Lowe's mixing chamber more difficult to clean and inspect. Accordingly, a person of ordinary skill in the art would not have modified Lowe's system to include a mixing chamber inside of a housing with a feed opening leading through a housing to the mixing chamber, as required by claims 1, 2, 6, 7, 19, 20, and 69-70.

Furthermore, without conceding that the combination of Crisp and Di Girolamo would result in each and every feature of claims 1, 2, 6, 7, 19, 20, 69, and 70, a person of ordinary skill in the art would not have combined Di Girolamo and Crisp to produce the beverage mixers and dispensers covered in claims 1, 2, 6, 7, 19, 20, 69, and 70. For example, a person of ordinary skill in the art would not have combined Di Girolamo and Crisp to produce a beverage mixer and dispenser with a feed opening leading through the housing to a mixing chamber where the feed opening is arranged to allow manual addition of drink additives, as required by claims 1, 2, 6, 7, and 69, or a beverage mixer and dispenser with a feed opening leading through the housing to a mixing chamber where the feed opening is arranged to allow manual addition of a soluble substance directly into the mixing chamber from outside the beverage mixer and dispenser, as required by claims 19, 20, and 70. As discussed above, Di Girolamo's machine is intended for brewing beverages by automatically admixing products which are soluble in a liquid. (See, e.g., Di Girolamo, col. 1, lines 6-13). Crisp describes a beverage dispenser including an access door connected to the exterior of a freezer compartment door to allow for removal of a fluid director for cleaning. (See, e.g., Crisp, col. 16, lines 48-58). Allowing manual addition of drink additives to Di Girolamo's machine through an access door would require significant reconstruction and redesign of the elements in Di Girolamo's machine. For example, Di Girolamo's machine would likely have to be reconstructed and redesigned to include increased clearance between Di Girolamo's metering unit 6 and manifold 7 to allow manual addition of a substance to the mixing chamber from outside the beverage mixer and dispenser. An increase in the clearance between Di Girolamo's metering unit 6 and manifold 7 would result in increasing spatial dispersion of the powder, and thus less precise delivery of powder to the manifold 7. Thus, such a modification would have made Di Girolamo's machine less suited for its intended

purpose of automatically metering liquid and soluble product. (See, e.g., Di Girolamo, col. 1, lines 10-12). Accordingly, contrary to the Examiner's contention, a person of ordinary skill in the art would not have modified Di Girolamo's machine to include Crisp's housing and access door.

In view of the foregoing, Di Girolamo, Lowe, and Crisp, taken alone and in any proper combination, fail to disclose or suggest each and every limitation of claims 1, 2, 6, 7, 19, 20, 69, and 70. Therefore, Applicants request reconsideration and withdrawal of the rejection of claims 1, 2, 6, 7, 19, 20, 69, and 70 as being unpatentable over Di Girolamo in view of Lowe and Crisp.

Claims 1, 2, 6-8, 19, 20, and 69-72 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Di Girolamo in view of Lowe. Applicants submit that claims 1, 2, 6-8, 19, 20 and 69-72 are allowable over Di Girolamo and Lowe for at least the reasons discussed above. Therefore, Applicants request reconsideration and withdrawal of the rejection of claims 1, 2, 6-8, 19, 20, and 69-72 as being unpatentable over Di Girolamo in view of Lowe.

Applicants further direct the Examiner's attention to new claims 73 and 74 covering a beverage mixers and dispensers including a second chamber containing a rotatable rotor, where the second chamber is positioned between the mixing chamber and an outlet through which an aerated beverage is dispensed into a receiving vessel for consumption. Claims 73 and 74 depend directly or indirectly from claim 1 and are patentable for at least the same reasons. Furthermore, Di Girolamo, Lowe, and Crisp, taken alone and in any proper combination, fail to disclose or suggest a beverage mixer and dispenser including such a second chamber containing a rotatable rotor positioned between a mixing chamber and an outlet.

Applicants thank the Examiner for indicating that claims 23-26, 34-49, 41, and 43-51 are allowed.

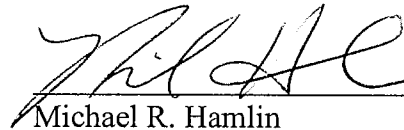
The fee in the amount of \$100 for excess claims is being paid herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 02894-595001.

Applicant : J. Coronado et al.  
Serial No. : 10/666,325  
Filed : September 18, 2003  
Page : 19 of 19

Attorney's Docket No.: 02894-595001 / 06735-  
PT10/Ha

Respectfully submitted,

Date: February 13, 2008



Michael R. Hamlin  
Reg. No. 54,149

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906